



Judicial Conduct Board
Commonwealth of Pennsylvania
Robert A. Graci, Chief Counsel
717-234-7911

Press Release

January 16, 2015

TO: Media/Press

FROM: Judicial Conduct Board

SUBJECT: Kelly S. Ballentine
Magisterial District Judge
Magisterial District 02-2-01
Lancaster County
2 JD 2015

Harrisburg. The Judicial Conduct Board today filed formal charges by Board Complaint in the Court of Judicial Discipline against Magisterial District Judge Kelly S. Ballentine of Lancaster County. The Board Complaint alleges violations of the Pennsylvania Rules Governing Standards of Conduct of Magisterial District Judges and the Pennsylvania Constitution. The Board also filed a Petition for Relief seeking interim suspension of Judge Ballentine based on the allegations of judicial misconduct set forth in the Board Complaint.

Under the Pennsylvania Constitution, Judge Ballentine, as the subject of the charges, is presumed innocent in all proceedings before the Court of Judicial Discipline. The Judicial Conduct Board has the burden of proving the charges filed in the Court of Judicial Discipline by clear and convincing evidence. The Court of Judicial Discipline may address the Petition for Relief seeking interim suspension of Judge Ballentine, with or without pay, prior to a hearing.

In accordance with the rules which govern proceedings before the Court of Judicial Discipline, Judge Ballentine has an opportunity to respond to the charges, obtain and inspect the evidence which forms the basis of the allegations, and the right to a public trial before the Court of Judicial Discipline.

Upon completion of the trial, if the Court determines that the charges have been proven by clear and convincing evidence, it will schedule a Sanctions Hearing to determine what sanctions should be imposed. Possible sanctions include reprimand, suspension, or removal from office.

Counsel

Board: Elizabeth A. Flaherty, Esquire
Respondent: Samuel C. Stretton, Esquire

Contact: Robert A. Graci, Chief Counsel

The Board Complaint and the Petition for Relief (without Board Complaint) are attached.
For more information about the Judicial Conduct Board, please visit our website at www.jcbpa.org.

END

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2015 JAN 16 P 4:32

IN RE:

Kelly S. Ballentine :
Magisterial District Judge :
Magisterial District 02-2-01 :
Lancaster County : 2 JD 2015

IMPORTANT NOTICE

TO: KELLY S. BALLENTINE

You are hereby notified that the Pennsylvania Judicial Conduct Board has determined there is probable cause to file formal charges against you for conduct proscribed by Article V, §§ 17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and Rule 2A and of the Old Rules Governing Standards of Conduct of Magisterial District Judges. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with C.J.D.R.P. No. 110.

You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), that should you elect to file an omnibus motion, that motion should be filed no

later than thirty (30) days after the service of this Complaint in accordance with C.J.D.R.P. No. 411.

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

COMPLAINT

AND NOW, this 16th day of January, 2015, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Board Complaint against the Honorable Kelly S. Ballentine (Judge Ballentine), Magisterial District Judge for Magisterial District 02-2-01, Lancaster County, Pennsylvania. The Board alleges that Judge Ballentine violated the Constitution of the Commonwealth of Pennsylvania, Article V, §§ 17(b) and 18(d)(1) and the Rules Governing Standards of Conduct of Magisterial District Judges, delineated more specifically as follows:

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court.

2. From January 2, 2006 to February 22, 2012, Judge Ballentine served as Magisterial District Judge for Magisterial District 02-2-01 of the Second Judicial District, Lancaster County, Pennsylvania, encompassing the City of Lancaster, Wards 3 and 7.

3. From February 22, 2012 through May 31, 2013, Judge Ballentine was suspended from her duties as Magisterial District Judge. *In re Ballentine*, 1 JD 2012; *In re Ballentine*, 7 JD 2013.

4. On June 1, 2013, Judge Ballentine returned to the bench and continues to serve as Magisterial District Judge for Magisterial District 02-2-01 to the present time.

5. As a Magisterial District Judge, Judge Ballentine is, and was at all times relevant hereto, subject to all the duties and responsibilities imposed on her

by the Constitution of Pennsylvania and the Rules Governing Standards of Conduct of Magisterial District Judges.

6. Based on a Confidential Request for Investigation at JCB File No. 2012-522, the Board investigated the instant matter.

7. As a result of its investigation, the Board concluded that there is probable cause to file formal charges against Judge Ballentine in this Court.

A. CONVICTION FOR CONDUCTING SALES WITHOUT A LICENSE

8. On June 29, 2009, Judge Ballentine opened a business, Walk-In-Style Fashion Footwear, at 356 North Queen Street, Lancaster, Pennsylvania which she owned and operated through August, 2014.

9. Initially, Judge Ballentine established the business, Walk-In-Style Fashion Footwear, as an investment and to provide an employment opportunity for her cousin, Sommers Daniels.

10. Ms. Daniels worked at Walk-In-Style Fashion Footwear from June 29, 2009 until August, 2010 when she "walked out" and thereafter did not return to employment at the business.

11. From August, 2010 through August, 2014, Judge Ballentine and her mother, Mary Ballentine, assumed responsibility for conducting the sales of shoes and taxable items at Walk-In-Style Fashion Footwear and at in-home party events, although the store was only open on an intermittent basis.

12. From June 29, 2009 until August, 2014, as the owner of Walk-In-Style Fashion Footwear, Judge Ballentine was responsible for all aspects of managing Walk-In-Style Fashion Footwear, including the financial management and the bank accounts related to the business.

13. From June 29, 2009 until August, 2014, as the owner and manager of Walk-In-Style-Fashion-Footwear, Judge Ballentine was responsible for the collection of sales tax on taxable items sold through the business.

14. At all times from June 29, 2009 until August, 2014, as the owner of Walk-In-Style Fashion Footwear, Judge Ballentine was solely responsible for the submission of tax returns and the remittance of sales taxes collected on the sale of taxable goods to the Pennsylvania Department of Revenue.

15. Judge Ballentine failed to remit any of the sales taxes collected in 2009, 2010, 2011 and 2012 until October 14, 2012, after she received notifications from the Pennsylvania Department of Revenue which are detailed in the following paragraphs.

16. On January 25, 2012, as a result of her failure to pay sales taxes due and owing on the sale of taxable goods at Walk-In-Style Fashion Footwear, the Pennsylvania Department of Revenue provided notice to Judge Ballentine that her license to sell taxable goods was revoked as of that date.

17. The License Revocation Notice advised Judge Ballentine that she was subject to a criminal citation if she sold taxable goods without a sales tax license.

18. The 2012 quarterly tax records for Walk-In-Style Fashion Footwear demonstrate that Judge Ballentine sold taxable goods during the first and second quarters of 2012 despite the January 25, 2012 License Revocation Notice.

19. On May 9, 2012, Al Forlizzi, District Administrator of the Bureau of Collections and Taxpayer Services, sent a letter to Judge Ballentine regarding the revocation of her Sales, Use and Hotel Occupancy Tax license for Walk-In-Style

Fashion Footwear and ordered her to surrender the license to the PA Department of Revenue.

20. The May 9, 2012 letter notified Judge Ballentine that she was prohibited from maintaining a place of business in Pennsylvania for the purpose of selling taxable goods until the revocation was rescinded and her license restored.

21. On September 25, 2012, the PA Department of Revenue issued a Non-Traffic Citation to Judge Ballentine for a summary offense violation of 72 P.S. § 7208(c) which prohibits the offering of taxable goods for sale without possession of a valid sales tax license.

22. On January 31, 2013, Judge Ballentine appeared *pro se* at a Summary Trial before the Honorable Paula P. Correal who denied Judge Ballentine's request for a continuance. *Commonwealth v. Ballentine*, Docket No. MJ-02202-NT-0000963-2012.

23. Following trial, Sr. MDJ Correal adjudicated Judge Ballentine guilty of the aforementioned summary offense and sentenced her to fines and costs in the amount of \$369.45.

24. On February 1, 2013, Judge Ballentine filed Notice of Summary Appeal in the Court of Common Pleas of Lancaster County. *Commonwealth v. Ballentine*, Docket No. CP-36-SA-0000023-2013.

25. On October 25, 2013, while represented by Attorney Jerome A. Taylor, Judge Ballentine withdrew her appeal.

26. On October 25, 2013, the Honorable Margaret Miller of the Court of Common Pleas of Lancaster County adjudicated Judge Ballentine guilty of the summary offense of conducting the sale of taxable goods at Walk-In-Style Fashion

Footwear without a valid sales license in violation of 72 P.S. § 7208(c) and sentenced her to pay a fine of \$300 plus costs and fees of \$106.95 for a total of \$406.95.

27. On December 20, 2010, Judge Ballentine presided over a summary case wherein the defendant business owner entered a guilty plea to the charge of conducting the sale or lease of services or tangible personal property that is subject to tax without a license. *Commonwealth v. Shand*, Docket No. MJ-022201-NT-0001105-2010 (72 P.S. § 7208(c)(Licenses).

28. The summary offense charged in *Commonwealth v. Shand* is identical to the summary charge filed against Judge Ballentine on September 25, 2012 by the Pennsylvania Department of Revenue pertaining to the sale of taxable goods without a license at Walk-In-Style Fashion Footwear.

29. On October 11, 2011, Judge Ballentine presided over a summary case wherein the defendant business owner entered a guilty plea to the charge of failure to file tax returns and pay taxes on the sale of taxable goods. (72 P.S. § 7208(b.1). *Commonwealth v. Abachndu*, Docket No. MJ-02201-NT-0000340-2011.

30. Judge Ballentine failed to file tax returns or pay sales tax due and owing from the sale of taxable goods at Walk-In-Style Fashion Footwear for the period of June 2009 through October 2012 which is a violation of 72 P.S. § 7208(b.1).

31. The summary offense charged in *Commonwealth v. Abachndu* was for conduct similar to Judge Ballentine's failure to file tax returns or remit sales taxes collected at Walk-In-Style Fashion Footwear.

32. During the time period when Judge Ballentine owned and operated Walk-In-Style Fashion Footwear, yet failed to file tax returns or pay the sales tax collected (June 2009 – October 2012), she presided over multiple cases wherein defendants were charged with the summary offense of Doing Business without a License: conducting cigarette sales without a license in violation of 72 P.S. § 228-A(a). *Commonwealth v. Naranjo-bernal*, Docket No. MJ-02201-NT-0000302-2010; *Commonwealth v. Lulena*, Docket No. MJ-02201-NT-0000301-2010; *Commonwealth v. Wright*, Docket No. MJ-02201-NT-0000276-2009.

33. In Judge Ballentine's June 5, 2014 response letter to the Board's May 7, 2014 letter of inquiry, she stated that because she was not usually physically present at Walk-In-Style Fashion Footwear, she did not receive the January 25, 2012 License Revocation Notice or any other communication from the Pennsylvania Department of Revenue prior to her receipt of its May 7, 2012 letter ordering her to surrender the license to conduct sales of taxable goods.

34. In Judge Ballentine's June 5, 2014 response letter to the Board's May 7, 2014 letter of inquiry, she stated that she neglected "any and all responsibilities associated with Walk-In-Style Fashion Footwear" because she was focused on the criminal and Judicial Conduct Board charges arising from her dismissal of three of her own traffic citations.

35. At the June 6, 2014 monthly probation reporting meeting with Chief Counsel Graci and Deputy Counsel Flaherty, Judge Ballentine had not yet timely submitted her response letter to the Board's May 7, 2014 letter of inquiry. She explained that the response was partially completed and requested more time to obtain pertinent records and amend her response to include answers to Questions

14 & 15.

36. Questions 14 & 15 in the Board's May 7, 2014 letter of inquiry asked Judge Ballentine to provide the exact dates when taxable goods were sold at Walk-In-Style Fashion Footwear during the first two quarters of 2012.

37. After her June 6, 2014 monthly probation reporting meeting, Judge Ballentine submitted the incomplete response letter dated June 5, 2014 in which she requested, in writing, additional time to respond to Questions 14 & 15, stating that the sales records for the first two quarters of 2012 were "in the possession of [her] tax preparer and therefore unavailable."

38. In her July 15, 2014 follow-up response to the Board's May 7, 2014 letter of inquiry, Judge Ballentine referred to her prior request "to amend [her] response to specifically respond to question 14 and 15 when the records became available." She attached sales receipts from the first two quarters of 2012 but did not state from whom she obtained the records.

39. Judge Ballentine later informed the Board that her tax preparer is Juan Galarza of Galarza Income Tax Service, 727 Prince Street, Lancaster, PA 17603.

40. Mr. Galarza did not prepare Judge Ballentine's State business tax returns for Walk-In-Style Fashion Footwear for tax years 2009, 2010, 2011, 2012 or 2013.

41. Mr. Galarza never had in his possession the Walk-In-Style Fashion Footwear sales records for taxable sales during the first two quarters of 2012 that were at issue in Questions 14 & 15 of the May 7, 2014 Board letter of inquiry.

42. Mr. Galarza only became aware of the financial data related to the business tax returns for Walk-In-Style Fashion Footwear beginning in late August

2014 when Judge Ballentine provided him with Excel spreadsheets so that he could deduct business losses related to Walk-In-Style Fashion Footwear from Judge Ballentine's federal, state and local individual income tax returns for tax years 2009, 2010, 2011, 2012 and 2013.

43. In Judge Ballentine's July 15, 2014 follow-up response to the Board's May 7, 2014 letter of inquiry, she stated that sales of taxable goods were conducted at Walk-In-Style Fashion Footwear after the Pennsylvania Department of Revenue issued the January 25, 2012 License Revocation, which she claimed not to have received, but before she received the May 9, 2012 letter ordering her to surrender her license to conduct sales of taxable goods.

B. FAILURE TO FILE INDIVIDUAL INCOME TAX RETURNS

44. While investigating the complaint of misconduct related to the Walk-In-Style Fashion Footwear sales tax case, by letter to Judge Ballentine dated August 11, 2014 and titled "Document Request and Supplemental Questions," the Board inquired whether Judge Ballentine filed her individual federal, state and local tax returns for tax years 2009, 2010 and 2011 which were the same years that she failed to file tax returns and remit sales taxes due and owing for Walk-In-Style Fashion Footwear.

45. Following receipt of the Board's August 11, 2014 Document Request and Supplemental Questions, Judge Ballentine hired Attorney Samuel C. Stretton to represent her legal interests.

46. During an August 25, 2014 telephone conference call in which Judge Ballentine participated, Mr. Stretton informed Board Chief Counsel that Judge

Ballentine failed to timely submit her federal, state and local individual income tax returns for tax years 2009, 2010, 2011, 2012 and 2013.

47. In her September 11, 2014 response letter to the Board's August 11 2014 Document Request and Supplemental Questions, Judge Ballentine admitted that she was aware that she was legally responsible for filing tax returns and remitting sales taxes collected at Walk-In-Style Fashion Footwear to the Pennsylvania Department of Revenue for tax years 2009, 2010 and 2011.

48. In her September 11, 2014 response letter to the Board's August 11, 2014 Document Request and Supplemental Questions, Judge Ballentine stated that there was no good reason for her failure to remit sales taxes from the sale of taxable goods at Walk-In-Style Fashion Footwear to the Pennsylvania Department of Revenue for tax years 2009, 2010 and 2011.

49. In the October 3, 2014 response letter to the Board's September 19, 2014 Supplemental Letter of Inquiry, Mr. Stretton stated on behalf of Judge Ballentine that her reasons for not filing tax returns for Walk-In-Style Fashion Footwear included:

- a. [She] was overwhelmed;
- b. The records were a mess;
- c. [She] thought it was too complicated;
- d. [She] developed a mental block and kept pushing it off; and
- e. There is no good excuse.

50. In her October 3, 2014 response letter to the Board's September 19, 2014 Supplemental Letter of Inquiry, Judge Ballentine stated that she failed to

timely file her federal, state and local individual income tax returns for tax years 2009, 2010, 2011 for the following reasons:

- a. She thought that she needed the information on the shoe store;
- b. [She] could just not bring herself to work on it and do it;
- c. It was a total mental block;
- d. She was wrong; and
- e. She had no good excuse.

51. In her October 3, 2014 response letter to the Board's September 19, 2014 Supplemental Letter of Inquiry, Judge Ballentine stated that the reasons why she failed to file her 2012 and 2013 federal, state and local individual income tax returns were the same as the reasons stated above in Paragraph Nos. 49 and 50.

52. In late August, 2014, after the Board's initial inquiry about whether or not Judge Ballentine filed her individual income tax returns, she first contacted her tax preparer, Juan Galarza, to request that he prepare and file her federal, state and local individual income tax returns for tax years 2009, 2010, 2011, 2012 and 2013.

53. Judge Ballentine's tax records demonstrate that in 2010, 2011, 2012 and 2013, she timely requested that her tax preparer, Mr. Galarza, file IRS Form No. 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, for tax years 2009, 2010, 2011 and 2012.

54. In April of 2010, 2011, 2012 and 2013, Mr. Galarza timely filed IRS Form No. 4868 for six month extensions of time to file Judge Ballentine's federal individual income tax returns for tax years 2009, 2010, 2011 and 2012.

55. By timely filing IRS Form 4868, the time to file Judge Ballentine's federal individual income tax returns was extended six months from the April due dates to the new October due dates for tax years 2009, 2010, 2011 and 2012.

56. By the timely filing of IRS Form 4868, the Pennsylvania Department of Revenue automatically granted six month extensions of time for Judge Ballentine to file your state income tax returns for tax years 2009, 2010, 2011 and 2012.

57. Despite the six month extensions of time to file the tax returns, Judge Ballentine failed to timely file her federal, state and local individual income tax returns for tax years 2009, 2010, 2011 and 2012.

58. On or before April 15, 2014, Judge Ballentine did not contact Mr. Galarza to request that he file IRS Form 4868 for an extension of time to file her 2013 federal individual income tax return.

59. Mr. Galarza did not file IRS Form 4868 to request a six month extension of time to file Judge Ballentine's 2013 federal individual income tax returns, nor submit to the Pennsylvania Department of Revenue a request for an extension of time to file Judge Ballentine's state individual income tax returns on or before April 15, 2014.

60. On August 28 and 29, 2014, Judge Ballentine delivered her tax records, in part, to Mr. Galarza for tax years 2009, 2010, 2011, 2012 and 2013.

61. Prior to a September 27, 2014 appointment with Mr. Galarza, Judge Ballentine delivered additional tax records to Galarza Income Tax Service for tax years 2009, 2010, 2011, 2012 and 2013.

62. On September 27, 2014, Mr. Galarza met with Judge Ballentine and prepared her tax returns for tax years 2009, 2010 and 2011.

63. On September 27, 2014, Judge Ballentine signed and dated her 2009, 2010 and 2011 federal, state and local individual income tax returns, prepared by Mr. Galarza.

64. On October 15, 2014, Mr. Galarza prepared Judge Ballentine's 2012 and 2013 federal, state and local individual income tax returns.

65. On October 15, 2014, Judge Ballentine signed and dated her 2012 and 2013 federal, state and local individual income tax returns as prepared by Mr. Galarza.

66. When Judge Ballentine filed her federal, state and local individual tax returns, she declared losses related to her business, Walk-In-Style Fashion Footwear and requested tax refunds, some of which were not recoverable because of a three year statute of limitations on late refund claims.

67. According to IRS Account Transcripts dated October 31, 2014, the IRS received Judge Ballentine's 2010 federal individual income tax return on October 28, 2014 and received her 2011 federal individual income tax return on October 8, 2014. The 2009, 2012 and 2013 tax returns were not yet listed as received by the IRS.

68. The Pennsylvania Department of Revenue deems the postmark date on tax returns as the filed date and listed Judge Ballentine's tax returns as filed on the following dates:

2009	Not received
2010	October 4, 2014
2011	October 9, 2014
2012	October 20, 2014

2013 October 20, 2014

69. Judge Ballentine timely paid the individual income taxes that she owed to the federal, state and local governments for tax years 2009, 2010, 2011, 2012 and 2013 solely through the withholding of tax moneys from her paycheck by the Administrative Office of Pennsylvania Courts.

70. On December 17, 2014, Board counsel issued a Notice of Full Investigation to Judge Ballentine.

71. In her January 7, 2015 response letter to the Notice of Full Investigation, Mr. Stretton wrote on behalf of Judge Ballentine that she erred in her response letter to the Board dated June 5, 2014. Although she wrote that the sales records for the first two quarters of 2012 were "in the possession of [her] tax preparer and therefore unavailable," she meant to say that the tax documents requested by the Board were in the possession of her attorney, Jerome Taylor, Esquire.

72. During an investigative interview, Mr. Taylor stated that in the spring of 2014, Judge Ballentine did contact him to request sales tax records from the case involving her business, Walk-In-Style Fashion Footwear; however, he searched for the records, did not find them and advised Judge Ballentine that he had previously returned all records relative to her appeal.

C. CHARGES

COUNT 1

73. By virtue of some or all of the facts set forth in Part B, Judge Ballentine violated Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges, effective through November 30, 2013, and is therefore

subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

74. Rule 2A provides in part:

Judges should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

R.G.S.C.M.D.J. No. 2A.

75. Pursuant to the October 30, 2013 Pennsylvania Supreme Court decision in *In re Carney*, 79 A.3d 490 (Pa. 2013), magisterial district judges, are required to comply with the law pursuant to Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges, whether or not their conduct implicates the judicial decision making process.

76. Under both the Federal Tax Code and the Pennsylvania tax laws, the failure to file a tax return is a criminal act, graded as a misdemeanor.

77. The Internal Revenue Code at 26 U.S.C.A. § 7203 provides:

Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return, keep any records or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records or supply such information, at the time or times required by law or regulations, shall in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$25,000 (\$100,000 in the case of a corporation), or imprisoned not more than 1 year or both, together with the costs of prosecution.

78. Pursuant to the Internal Revenue Code at 26 U.S.C.A. § 7203, the failure to file federal individual income tax returns is a federal misdemeanor crime.

79. The Pennsylvania Tax Reform Code of 1971 at 72 PS. § 7535(c) provides:

Any person required under this article to pay any tax or to make a return, keep any records or supply any information, who wil[l]fully fails to pay such tax or make such return, keep such records or supply such information at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding five thousand dollars (\$5,000), or to undergo imprisonment not exceeding two years, or both.

80. Pursuant to Pennsylvania Tax Reform Code of 1971 at 72 PS. § 7535(c), the failure to file Pennsylvania individual income tax returns is a state misdemeanor crime.

81. Under federal and state tax laws, "willfully" means with knowledge.

82. Judge Ballentine knew that federal tax law required her to timely file her federal individual income tax returns for tax years 2009, 2010, 2011, 2012 and 2013.

83. Judge Ballentine knew that Pennsylvania tax law required her to timely file her state individual income tax returns for tax years 2009, 2010, 2011, 2012 and 2013.

84. Judge Ballentine was required to timely file her federal, state and local individual income tax returns for tax years 2009, 2010, 2011, 2012 and 2013 but failed to do so by the due dates in 2010, 2011, 2012, 2013 and 2014.

85. By her willful conduct of failing to timely file her federal individual income tax returns by the required due dates in 2010, 2011, 2012, 2013 and 2014, Judge Ballentine violated the Internal Revenue Code at 26 USCA § 7203.

86. By her willful conduct of failing to timely file her Pennsylvania individual income tax returns by the required due dates in 2010, 2011, 2012, 2013

and 2014, Judge Ballentine violated the Pennsylvania Tax Reform Code at 72 P.S. § 7353.

87. After the *Carney* decision, Judge Ballentine failed to timely file her 2013 federal individual income taxes on or before April 15, 2014 and thereby violated federal law.

88. By her conduct of failing to file her 2013 federal individual income tax returns on or before April 15, 2014, Judge Ballentine failed to respect and comply with federal tax laws.

89. After the *Carney* decision, Judge Ballentine failed to timely file her 2013 state individual income taxes on or before April 15, 2014 and thereby violated Pennsylvania law.

90. By her conduct of failing to file her 2013 Pennsylvania individual income tax returns on or before April 15, 2014, Judge Ballentine failed to respect and comply with Pennsylvania tax laws.

91. Because Judge Ballentine failed to respect and comply with the law in 2014, she is subject to discipline under Rule 2A of the R.G.S.C.M.D.J.

92. By her conduct of failing to file her 2013 federal individual income tax returns on or before April 15, 2014, Judge Ballentine failed to conduct herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

93. By her conduct of failing to file her 2013 Pennsylvania individual income tax returns on or before April 15, 2014, Judge Ballentine failed to conduct herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

94. As a result of all of the conduct set forth in Paragraph Nos. 82-93, Judge Ballentine violated Rule 2A of the Old Rules Governing Standards of Conduct of Magisterial District Judges.

COUNT 2

95. By virtue of some or all of the facts alleged above in Part B, Judge Ballentine violated Article V, § 17(b) of the Pennsylvania Constitution.

96. In pertinent part, Article V, § 17(b) provides:

Justices of the peace [magisterial district judges] shall be governed by rules or canons which shall be prescribed by the Supreme Court.

97. A violation of the Rules Governing Standards of Conduct of Magisterial District Judges is an automatic derivative violation of Article V, §17(b).

98. Judge Ballentine violated Article V, § 17(b) as a direct result of her violation of Rule 2A of the Rules Governing Standards of Conduct of Magisterial District Judges.

Count 3

99. By virtue of some or all of the facts alleged above in Parts A and B, Judge Ballentine violated the Disrepute Clause of Article V, § 18(d)(1) of the Pennsylvania Constitution.

100. Article V, § 18(d)(1) prohibits a judge from engaging in conduct which brings disrepute upon the judicial office itself and provides in part:

A justice, judge or justice of the peace [magisterial district judge] may be suspended, removed from office or otherwise disciplined for . . . conduct which . . . brings the judicial office into disrepute, whether or not the conduct occurred while acting in a judicial capacity or is prohibited by law.

101. By her October 25, 2013 conviction for the summary criminal offense of conducting sales without a license at Walk-In-Style Fashion Footwear, Judge Ballentine brought the judicial office into disrepute.

102. By her failure to timely file tax returns for Walk-In-Style Fashion Footwear for tax years 2009, 2010, 2011 and the first two quarters of 2012, Judge Ballentine brought the judicial office into disrepute.

103. By her failure to timely file individual federal income tax returns for tax years 2009, 2010, 2011, 2012 and 2013, Judge Ballentine violated the Internal Revenue Code in each of five consecutive years.

104. By her violation of federal law in 2010, 2011, 2012, 2013 and 2014, Judge Ballentine brought the judicial office into disrepute.

105. By her failure to timely file Pennsylvania individual income tax returns for tax years 2009, 2010, 2011, 2012 and 2013, Judge Ballentine violated Pennsylvania tax law in each of five consecutive years.

106. By her violation of state law in 2010, 2011, 2012, 2013 and 2014, Judge Ballentine brought the judicial office into disrepute.

107. By her conduct enumerated in Paragraph Nos. 101-106, Judge Ballentine violated the Disrepute Clause of Article V, § 18(d)(1).

108. By all of the allegations of misconduct set forth above, Judge Ballentine engaged in a pattern of conduct so extreme as to bring disrepute upon the judicial office itself in violation of the Disrepute Clause of Article V, § 18(d)(1).

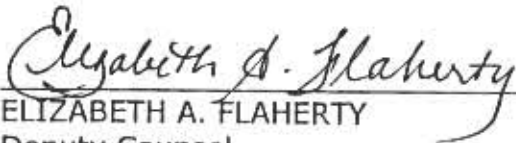
WHEREFORE, Kelly S. Ballentine, Magisterial District Judge is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: January 16, 2015

By:


ELIZABETH A. FLAHERTY
Deputy Counsel
Pa. Supreme Court ID No. 205575

Judicial Conduct Board
601 Commonwealth Avenue, Suite 3500
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Kelly S. Ballentine	:	
Magisterial District Judge	:	
Magisterial District 02-2-01	:	2 JD 15
Lancaster County	:	

VERIFICATION

I, Elizabeth A. Flaherty, Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

January 16, 2015

BY:


Elizabeth A. Flaherty
Deputy Counsel
Pa. Supreme Court ID No. 205575

Judicial Conduct Board
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601 Commonwealth Avenue, Suite 3500
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Lancaster County	:	

PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about January 16, 2015, a copy of this *BOARD COMPLAINT* was sent by Certified Mail to Judge Ballentine's counsel, Samuel C. Stretton, Esquire, who agreed to accept service on behalf of his client, Judge Ballentine:

Samuel C. Stretton, Esquire
301 South High Street
P.O. Box 3231
West Chester, PA 19381

Certified Mail No. 7161 7145 5373 0150 1818
Return Receipt Requested

Respectfully submitted,
ROBERT A. GRACI
Chief Counsel

January 16, 2015

BY:


Elizabeth A. Flaherty
Deputy Counsel

Pa. Supreme Court ID No. 205575
Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2015 JAN 16 P 4:33

IN RE:

Kelly S. Ballentine :
Magisterial District Judge :
Magisterial District 02-2-01 :
Lancaster County : 2 JD 2015

PETITION FOR RELIEF FOR INTERIM SUSPENSION WITH OR WITHOUT PAY

AND NOW, this 16th day of January, 2015, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board), by and through Robert A. Graci, Chief Counsel, and Elizabeth A. Flaherty, Deputy Counsel, and files this Petition for Relief For Interim Suspension With or Without Pay pursuant to Article V, § 18(d)(2) of the Pennsylvania Constitution, Rule 701 of the Court of Judicial Discipline Rules of Procedure, and Rule 13(A) of the Judicial Conduct Board Rules of Procedure and in support thereof, avers the following:

1. The Pennsylvania Constitution at Article V, § 18(d)(2) provides this Court with the authority to impose interim suspension as follows:

Prior to a hearing, the court may issue an interim order directing suspension, with or without pay, of any justice, judge or justice of the peace against whom formal charges have been filed with the court by the board or against whom has been filed an indictment or information charging a felony. An interim order under this paragraph shall not be considered a final order from which an appeal may be taken.

Pa. Const. art. V, § 18(d)(2).

2. From January 2, 2006 to February 22, 2012, Judge Ballentine served as Magisterial District Judge for Magisterial District 02-2-01 of the Second Judicial District, Lancaster County, Pennsylvania, encompassing the City of Lancaster,

Wards 3 and 7.

3. From February 22, 2012 through May 31, 2013, Judge Ballentine was suspended from her duties as Magisterial District Judge. *In re Ballentine*, 1 JD 2012; *In re Ballentine* 7 JD 2013.

4. On June 1, 2013, Judge Ballentine returned to the bench and continues to serve as Magisterial District Judge for Magisterial District 02-2-01 to the present time.

3. Contemporaneously with the filing of this Petition, Board Counsel is filing a Board Complaint against Judge Ballentine alleging three counts of judicial misconduct. A copy of the Board Complaint is attached hereto, made a part hereof and incorporated herein by reference as though set forth in full. **See** Attachment "A" (Board Complaint).

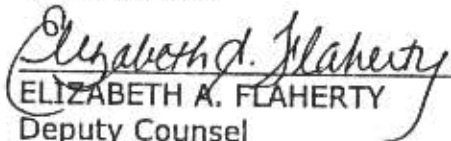
4. The allegations contained within the Board Complaint against Judge Ballentine undermine both public confidence in the judiciary and the reputation of the judiciary. If Judge Ballentine is permitted to continue to preside over cases presented in Magisterial District Court 02-2-01 during the pendency of the Board Complaint, the public's confidence in the judiciary will continue to erode.

WHEREFORE, it is respectfully requested that this Honorable Court enter an interim order suspending Judge Ballentine, either with or without pay, pending disposition of the Board Complaint filed against her and to grant such other relief as may be deemed appropriate.

Respectfully submitted,
ROBERT A. GRACI
Chief Counsel

DATE: January 16, 2015

BY:


ELIZABETH A. FLAHERTY
Deputy Counsel
Pa. Supreme Court ID No. 87637

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Kelly S. Ballentine	:	
Magisterial District Judge	:	
Magisterial District 02-2-01	:	2 JD 15
Lancaster County	:	

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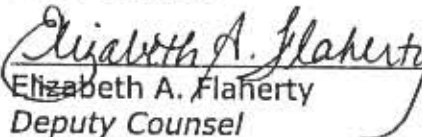
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Respectfully submitted,
ROBERT A. GRACI
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January 16, 2015

BY:


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